IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 411 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJENDRABHAI HARIBHAI PATEL - Petitioner(s)
Versus
NADIAD MUNICIPALITY - Respondent(s)

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Appearance :
MR HM PARIKH for Petitioner(s) : 1,
MR YV SHAH for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 13/04/2007

ORAL JUDGMENT

1. In the present petition, the petitioner has sought refund of earnest money of Rs. 5,00,000/- deposited by him with the Nadiad Municipality

for participating in public auction. It is the case of the petitioner and it is not disputed by the respondent that the said amount was deposited as earnest money and that the petitioner did not bid successfully. By simple logic and by agreement between the parties, therefore, the petitioner was entitled to receive his earnest money back forthwith. Nadiad Municipality however, utilised the money so deposited for other purposes and did not repay the same which compelled the petitioner to file the present petition. Despite this Court directing way back on 24th September, 2001, to refund the amount within two weeks, the Municipality did not comply with the directions.

2. Learned advocate Shri Y.V. Shah appearing for the Municipality states under instructions that by December, 2005, the petitioner is already paid a sum of Rs.3,15,000/-. He submitted that though the municipality has been paying periodically to all such non-allottees thereafter also, he is unable to give exact figure of such repayments. He however, assured the Court that deficit, if any, will be paid over to the petitioner within the time that this Court may provide.

3. Considering the submissions made while disposing of this petition at this stage, it is provided that Nadiad Municipality shall refund full

amount of Rs. 5,00,000/- if not already so done within a period of two months from today. It may be noted that the action of Municipality in utilising the earnest money deposit of unsuccessful bidders for its other requirements has not gone down well with the Court and that it is expected that the directions which are now being given will not be flouted. Any deviation shall be viewed seriously.

4. With these directions, the petition is disposed of. Rule made absolute to the above extent with no order as to costs.

(Akil Kureshi,J.)

(raghu)